

CONVENTION ON THE CONSERVATION AND MANAGEMENT
OF POLLOCK RESOURCES IN THE CENTRAL BERING SEA
(TREATY DOC. 103-27) AND TWO TREATIES WITH THE
UNITED KINGDOM ESTABLISHING CARIBBEAN MARITIME
BOUNDARIES (TREATY DOC. 103-23)

Y 4. F 76/2: S. HRG. 103-767

Convention on the Conservation and... RING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

SEPTEMBER 28, 1994

Printed for the use of the Committee on Foreign Relations



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**CONVENTION ON THE CONSERVATION AND
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103-27) AND TWO TREATIES WITH THE
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BEAN MARITIME BOUNDARIES (TREATY
DOC. 103-23)**

WEDNESDAY, SEPTEMBER 28, 1994

**U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
*Washington, DC.***

The committee met, pursuant to notice, at 10:30 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Claiborne Pell (chairman of the committee) presiding.

Present: Senators Pell and Murkowski.

The CHAIRMAN. The Committee on Foreign Relations will come to order.

I wish to welcome our witnesses and the public to today's hearing of the committee. We have two treaty documents, but actually three treaties, on the agenda. The first item is the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, commonly referred to as the Donut Hole Convention.

The second item consists of two boundary treaties, the first establishing the maritime boundary between the U.S. Virgin Islands and Anguilla, and the second establishing the maritime boundary between Puerto Rico and the U.S. Virgin Islands and the British Virgin Islands.

The Donut Hole Convention addresses an issue of major importance to fishermen in the northwestern United States and in Alaska: overfishing for pollock in the Central Bering Sea. I support prompt Senate action on this Convention.

I would also note that the Convention is based on the 1982 U.S. Convention on the Law of the Sea. The Law of the Sea Convention recognizes the rights of all states' nationals to fish on the high seas, but couples this right with the responsibility to conserve high seas fishery resources.

As Ambassador Colson notes in his written statement, the Donut Hole Convention is precisely the sort of agreement envisaged by UNCLOS.

I know the administration is working hard to transmit the Law of the Sea Convention to the Senate before we adjourn, and I intend to initiate ratification proceedings early next year.

As noted earlier, the second item on the agenda is the two maritime boundary treaties. These were added to the agenda for today's hearing at the administration's request. I regret that Congressman De Lugo of the Virgin Islands will be unable to attend our hearing because of scheduling conflicts.

It is my understanding that while he does not object to the two treaties themselves, there is concern in the U.S. Virgin Islands about their indirect relationship to the 1979 Reciprocal Fisheries Agreement between the United States and the United Kingdom.

I understand both Senator Stevens and Murkowski will be somewhat delayed, so I believe we should start with the two boundary treaties.

In this regard, I would also note that I have received a letter from the Governor of the Virgin Islands requesting the committee defer action on the treaties for the moment. I ask unanimous consent that his letter be inserted in the record. Without objection, we will do so.

[The letter referred to follows:]

September 27, 1994.

The HON. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations,
SD-466 Dirksen Senate Office Building,
Washington, DC 20510

DEAR MR. CHAIRMAN: I write respectfully to request that the Committee on Foreign Relations defer action, at the present time, on the proposed Caribbean Maritime Boundary Agreement between the United Kingdom and the United States that is presently pending ratification.

To the best of my recollection, the boundary agreement has been negotiated without my being consulted. I have some concerns about it, relating particularly to the points of demarcation and I would like the opportunity to express them to the committee.

Your assistance in this regard is deeply appreciated.

Sincerely,

ALEXANDER A. FARRELLY,
Governor.

The CHAIRMAN. With that, I look forward to hearing from our witnesses today. Ambassador Colson, welcome. The floor is yours.

STATEMENT OF HON. DAVID COLSON, DEPUTY ASSISTANT SECRETARY FOR OCEANS, DEPARTMENT OF STATE

Ambassador COLSON. Thank you, Mr. Chairman.

I understand you would like me to begin with the two boundary agreements.

The CHAIRMAN. That is correct.

Ambassador COLSON. There is a prepared statement, and I ask that it be placed in the record and I will briefly summarize my testimony.

The CHAIRMAN. Without objection, that will be done.

Ambassador COLSON. These are two routine maritime boundary treaties that essentially formalize the status quo which has existed in the Caribbean since 1977, when both the United States and the United Kingdom, with respect to the British Virgin Islands and Anguilla, established our 200-mile jurisdiction. Since that time, both the United States and the United Kingdom have used equidistant

lines between the various islands in that part of the world to describe the maritime boundary limits of our national jurisdiction.

The treaties that are now before you simply formalize what has been the practice of both states for 17 years. The treaties are fully consistent with U.S. maritime boundary practice and Article 72 and 83 of the Law of the Sea Convention. They promote a favorable precedent for U.S. interests in other boundary regions.

I know that there are members of this committee who will be here a little bit later that are particularly interested in seeing the equidistant precedent established for boundaries between the United States and Canada in Dixon Entrance and the Beaufort Sea. These equidistant boundaries that we have with other countries are important precedents for those situations.

There was a full range of consultations with affected interests which occurred in the 1970's when we established these basic maritime boundary positions. And I know that it is of interest to the committee that ultimately we establish these boundaries by formal treaty brought before this committee and the Senate. The Department is trying to bring about routinely one or two equidistant line boundary agreements annually in order to formalize them properly by treaty.

We took the occasion of our very close working relationship with the United Kingdom on Law of the Sea issues to formalize the text of these two treaties.

Now, as I said, these are really a reflection of the status quo that has existed in this region for 17 years.

We are aware that certain local fishing interests in the U.S. Virgin Islands have identified some issues that they would like to see addressed with British authorities relating primarily to access for U.S. fishermen into British waters. They believe that holding up ratification of these boundary agreements is the way to create leverage for dealing with the United Kingdom on this issue.

And I can say very frankly and in a very straightforward way that, certainly in our view, nothing could be further from the truth. We are certainly prepared to help our fishing interests in the U.S. Virgin Islands. It is our job to promote and advance the interests that they have. And, indeed, we have already begun a process of working with the concerned groups in the Virgin Islands area.

But, certainly, the Department and the administration do not agree that trying to link really unrelated fishing access issues to U.S. ratification of very straightforward maritime boundary agreements with a close friend and ally such as the United Kingdom is the way to go about our jobs or the way to deal with a totally unrelated fishery issue.

Mr. Chairman, what we have here is a situation of apples and oranges; the issues are unrelated. And trying to create linkages where there are none invariably poisons the atmosphere.

Indeed, I would submit that creating a linkage here will hurt our chances of securing favorable fishery results, while ratification of the boundary agreement will enhance the opportunity to accomplish our fishery objectives.

Our close relationship with the United Kingdom on the full range of ocean issues, including the Law of the Sea, calls for us to ratify these boundary agreements expeditiously and on their merits. We

will continue to work as well on the fishing issues of concern in the U.S. Virgin Islands; and we will do that effort, as well, on the merits of those fishery issues. But linking these two issues to create some perceived political leverage is not really the way that we think we should go about this task.

With those comments, Mr. Chairman, I would be happy to answer any questions on the boundary treaties.

[The prepared treaties statement of Ambassador Colson follows:]

PREPARED STATEMENT OF AMBASSADOR DAVID A. COLSON

TREATIES BETWEEN THE UNITED STATES AND THE UNITED KINGDOM ON THE DELIMITATION OF MARITIME BOUNDARIES IN THE CARIBBEAN

Dear Mr. Chairman: I welcome the opportunity to testify today in support of two treaties that establish two maritime boundaries between the United States and the United Kingdom in the Caribbean. One treaty establishes a boundary between Puerto Rico and the U.S. Virgin Islands and the British Virgin Islands. The second treaty establishes a boundary between the U.S. Virgin Islands and Anguilla.

These treaties are necessary to delimit the U.S. sovereignty and maritime jurisdiction in these areas and to resolve potential overlapping claims of jurisdiction arising from the establishment of 200 nautical mile maritime zones by the United States and by the United Kingdom. In 1976 the United States enacted the Fishery Conservation and Management Act of 1976 which established a 200 nautical mile fishery conservation zone off the coasts of the United States. By Presidential Proclamation in 1983 this zone became an exclusive economic zone.

Maritime boundary situations arise with neighboring states of the United States where the coasts of the two countries are less than 400 nautical miles apart. The Fishery Conservation and Management Act of 1976 created 28 maritime boundaries for the United States. Recognizing that it would not be possible to conclude boundary agreements with our neighbors before establishing the fishery conservation zone on March 1, 1977, the United States published provisional limits of that zone on March 7, 1977, "pending the establishment of permanent maritime boundaries by mutual agreement."

Subsequently, the United States has pursued negotiations with several neighboring states. To date, the U.S. Senate has given its advice and consent to ratification of four maritime boundary treaties, three of which have entered into force: Venezuela, Cook Islands, and New Zealand (for Tokelau). The United States awaits action by the Russian Parliament before that maritime boundary treaty can enter into force.

I would like to turn to the two treaties presently before the Senate, which involve our Caribbean territories of Puerto Rico and the U.S. Virgin Islands and the U.K. territories of British Virgin Islands and Anguilla. I would like to give you a brief chronology of the events leading to the signing of the treaties, and to explain the provisions of the agreements.

In anticipation of legislative action to extend United States maritime jurisdiction to 200 nautical miles, the State Department in 1975 established an interagency group to develop a U.S. maritime boundary policy. This group included representatives of the Departments of State, Interior, Commerce, Defense, Energy, and Transportation (Coast Guard). The task of this group was to identify in each boundary situation the maritime boundary that would maximize United States resource and security interests consistent with international law and friendly relations with our neighbors.

For the two boundaries created by the present treaties, lines drawn equally distant from the respective coasts were considered to meet United States objectives. In January 1977, a team of U.S. officials traveled to San Juan and Charlotte Amalie to brief government officials on the pending Magnuson Fishery Conservation and Management Act which would become effective March 1, 1977. The fishery limits for Puerto Rico and the U.S. Virgin Islands, based on equidistant lines, were explained and there was approval by all concerned.

About a week after the U.S. 200-mile zone became effective the United Kingdom extended the fishery zone of the British Virgin Islands to 200 miles. This limit was also based on an equidistant line. Agreement that the maritime boundary was to be an equidistant line came in 1979 when the United States and the United Kingdom concluded a fisheries treaty pertaining to reciprocal fishing at existing patterns and levels between the U.S. Virgin Islands and British Virgin Islands. In the pre-

amble to this treaty both governments recalled their common approach to the limits of jurisdiction is the equidistant line.

I should state that regional officials, including government officials from Puerto Rico and the U.S. Virgin Islands, and members of the Regional Fishery Council were consulted in preparation for the 1979 fishery talks with the U.K. Several officials served on the U.S. delegation for the negotiations. The Senate gave its advice and consent to ratification of this treaty on December 16, 1981, and it entered into force on March 10, 1983 (TIAS 10545, 34 UST 3147), following U.K. ratification on January 26, 1983.

In late 1991, the Acting Secretary of State authorized the conclusion of maritime boundary treaties with the United Kingdom incorporating equidistant lines. It was anticipated that no formal negotiating sessions would be necessary and that the needed technical work could be accomplished through correspondence. Between mid-1992 and mid-1993 technical experts from both sides worked on aspects of developing precise and accurate equidistant lines.

By late summer 1993 the equidistant lines had been calculated and agreed upon. During the summer of 1993 treaty texts were written and exchanged. By early September 1993 draft treaties were completed. On our part, we submitted the drafts to government representatives of Puerto Rico and the U.S. Virgin Islands. No objections to the treaties were raised.

On November 5, 1993, the two maritime boundary treaties were signed in London.

Let me now turn to the provisions of the treaties. The provisions of the two treaties are essentially the same, save for Article II which defines the boundaries.

Article I of each treaty confirms that the sole purpose of the treaty is to establish a maritime boundary between our respective Caribbean territories.

Article II of each treaty defines the boundary.

Article III of each treaty provides that each Party shall not claim or exercise for any purpose sovereignty, sovereign rights, or jurisdiction with respect to the waters or seabed or subsoil on the side of the boundary adjacent to the other Party.

Article IV of each treaty provides that the maritime boundary shall not affect or prejudice either Party's position with respect to the rules of international law relating to the law of the sea. Such a provision has been considered desirable by the United States because maritime boundary treaties take the form of a "quitclaim," as provided for in Article III. The agreement does not, however, commit either Party to accept any maritime claims made by the other Party on the other side of the boundary. The provision in Article IV makes clear that each Party does not give up the right to oppose, as inconsistent with the law of the sea claims made by the other Party on its side of the boundary. A version of Article IV appears in other U.S. maritime boundary treaties to which the Senate has given its advice and consent to ratification, including the 1978 treaty with Venezuela, involving Puerto Rico and the U.S. Virgin Islands.

And, Article V in each treaty states that the treaty will enter into force on the date of exchange of instruments of ratification.

Puerto Rico/U.S. Virgin Islands—British Virgin Islands

One of the preambular paragraphs takes note of the 1979 Reciprocal Fisheries Agreement between the United States and the United Kingdom. The establishment of this maritime boundary does not affect the provisions of this 1979 Agreement.

Article II of the boundary treaty relating to Puerto Rico/U.S. Virgin Islands and the British Virgin Islands refers to an Annex which list 50 boundary turning or terminal points which are to be connected by geodetic lines (the shortest lines between sets of two points). The article also states that the geodetic and computational bases used in determining the boundary are the North American Datum 1983 ("NAD 83"). Citation is given to a map which is annexed to the treaty for illustrative purposes only.

The total length of the boundary is 288 nautical miles. In the north the boundary begins at a point which is 200 nautical miles from the coasts of both Puerto Rico and the British Virgin Islands. Proceeding south, the first 134 miles of the equidistant line are calculated from Puerto Rico's coast. At point 6 of the boundary, about 75 miles from the respective coasts, the boundary is equidistant from Puerto Rico, the U.S. Virgin Islands, and the British Virgin Islands. From this point to the southern terminus (the tripoint with Anguilla) the influencing base points that determine the course of the boundary are situated on the U.S. Virgin Islands and the British Virgin Islands.

Most of the boundary turning points are situated in the area where the U.S. Virgin Islands and the British Virgin Islands are quite close. The two territories are, at one point, about 0.5 nautical miles apart; thus the boundary comes within ap-

proximately 0.25 nautical miles of each coast. At the tripoint with Anguilla the boundary is about 40 nautical miles from the respective coasts.

Both sides agreed to simplify an original equidistant line comprising 125 turning and terminal points to 50 points. With the goal of creating a simplified equidistant line in which neither side "gained" or "loss" area, geodetic computations and digitizing were used to calculate areas displaced in this process. The procedure of discarding 75 turning points resulted in essentially no net area gain or loss by either side.

U.S. Virgin Islands—Anguilla Boundary

Article II of this treaty defines the maritime boundary, which comprises one segment 1.34 nautical miles in length. The boundary is approximately 40 nautical miles from the respective coasts. The northern terminus is the tripoint with the British Virgin Islands boundary; the southern terminus is a tripoint equally distant from St. Croix (U.S.), Anguilla (U.K.) and Saba Island (Netherlands). The Netherlands Government provided the geographic coordinates for the relevant Saba Island base point. Article II refers to the use of the North American Datum 1983 and to the fact that an illustrative map is attached to the treaty.

Mr. Chairman, I thank you for giving me this opportunity to presenting these two important maritime boundary treaties to you and the Committee. We urge early Senate advise and consent to ratification of these treaties. I would be happy to answer any questions you may have. Thank you.

The CHAIRMAN. You have before you a letter that we just received today, which we have already put in the record. It would seem to me that as a matter of courtesy to the Government that we should roll this over. What is your view?

Ambassador COLSON. Mr. Chairman, this letter seems to relate solely to the boundary agreement itself. And the Governor indicates that he has some concern about points of demarcation. I do not know what he has in mind. But that boundary, the limit that the United States uses in that region, and the boundary that the United Kingdom uses in that region, have been essentially the same since 1977. And there has never been any concerns raised by anyone about the limits of our jurisdiction or the limits of British jurisdiction in that area.

So, again, this has been something that has been rather quiet for a long time. We did consult with the local interests intensively in the 1977 period, when we established these limits. They were published in the Federal Register. We consulted with the people in the region, in both Puerto Rico and in the Virgin Islands, about what we intended to do to establish the limits of U.S. jurisdiction. And that was 17 years ago.

When we got ready to formalize this situation in a treaty with the United Kingdom, we did consult with the offices here in this town that represent the Virgin Islands here in Washington, DC. We indicated that we were going forward now to simply formalize what had been the status quo for 17 years. And there was no indication of any difficulty about this either in terms of fishing issues or in terms of some concern about, as the Governor's letter says, points of demarcation.

The line that is in these treaties is an equidistant line. It is a line that is halfway between U.S. islands and British islands, all the way down the line. This is our standard practice that we use in other parts of the world, except for three exceptions that have been longstanding U.S. positions for our maritime boundaries. And it is a precedent that we would want to continue with. It has been assessed that this way is in the total U.S. interest, in all of our

boundary situations, except for those places where there are very, very large special circumstances.

So, I do not know that there is any reason to depart from an equidistant line in this region. That has been our practice in this region for 17 years. I think the British Government would have substantial difficulty if we were to go to them now and raise some questions about this. And I do not think it would be consistent with our overall interests in boundary situations were we to do that.

The CHAIRMAN. Though I appreciate your thoughts, it seems to me that the administration has the responsibility to coordinate its position on this. And if one arm of the administration, the Governor, says one thing and another arm says another thing, which is what you are saying. And I am very sympathetic to your view that as a responsible committee we ought to see that the administration is speaking through one mouth.

Ambassador COLSON. I am not sure, sir, if the Governor of the Virgin Islands is really part of the administration. I may stand to be corrected there, but I believe he is an elected official in the Virgin Islands. But we can certainly look into that.

The CHAIRMAN. Is he elected or appointed?

Ambassador COLSON. I really do not know.

The CHAIRMAN. I do not either.

Ambassador COLSON. We can look into that question.

The CHAIRMAN. I am interested, because over the new year I expect to spend some days in the British Virgin Islands sailing.

Ambassador COLSON. I may recount for you, Mr. Chairman, a bit of a story here. I too have sailed in the British Virgin Islands from time to time. And one of the benefits, occasionally of having an old bureaucrat doing some of this work is to recall that when we established our jurisdiction in 1977 and the British Government gave us the coordinates of the equidistant line that they thought was appropriate, and we exchanged the coordinates of the equidistant line which we thought appropriate, we found out that there was an island in the middle of the channel between the U.S. Virgin Islands and the British Virgin Islands that was actually claimed by both governments. It is a small island called Flanagan Island that if you are sailing down there, you will find on your charts.

In resolving this issue over the course of the last 17 years, the British Government agreed to our position that the United States really owns this small uninhabited island of several acres that sits in the middle of the channel, and this boundary agreement again confirms that the island is on the U.S. side of this boundary line.

I hope that when you are sailing down there you will look at that island on the charts and that you will note that one part of the process of getting this agreement negotiated was to confirm U.S. jurisdiction over the small Flanagan Island in the middle of the channel.

The CHAIRMAN. I look forward to personally checking that out when the time comes.

It says here in the letter from the Governor that the boundary agreement has been negotiated without his being consulted, to the best of his recollection. Is that a correct statement?

Ambassador COLSON. I think it is a correct statement to say that in the most recent initiative that the representatives in the Virgin

Islands were not consulted directly. We worked with his representative here in Washington, and expected that representative to be dealing with the authorities in the island territory. But we did seek to consult with him. We used the channel that we often use in Washington, which is to consult with the people here in town, and expect them to carry the message forward to the local authorities.

I will emphasize again, though, that when this jurisdiction was established and when we were establishing our position in 1977, there was extensive consultation with the authorities in the Virgin Islands.

The CHAIRMAN. I thank you very much, indeed. I think at this point that we might move on to the Donut Hole Convention and ask you for your testimony while we put this on the side for the time being. After you have spoken, I trust Senator Murkowski and Senator Stevens will be here. They have an interest in this. But, for the moment, please carry on.

Ambassador COLSON. Thank you. Again, I do have a prepared statement for the record, and ask that it be placed in the record.

I am very pleased to be able to testify on behalf of the administration on this Convention—what we know as the Donut Hole Convention. The Donut Hole is the area of the Central Bering Sea beyond 200 nautical miles from the United States and Russian coasts. It is thus high seas as we use that phrase in the Law of the Sea.

There is a stock of fish called pollock. This stock is known as the Aleutian Basin pollock stock, that ranges into this high seas donut hole area from the U.S. zone primarily, but also from the Russian zone to some extent. In international practice, where we have a stock of fish going from a coastal state's 200-mile zone and ranging into the high seas area, we know of this issue as a straddling stock issue.

The Donut Hole Convention before the committee addresses the problem of the conservation, management and utilization of this straddling stock resource—this pollock stock resource. It is a very special agreement from a number of perspectives.

First, it came about due in very large measure to the close coordination and cooperation with the U.S. advisers and Members of Congress and staff throughout the negotiating process. And as the negotiator, I certainly want to express my thanks for the strong support and participation by the North Pacific and Bering Sea advisers that we had throughout this process.

Second, the Convention also came about due to a very intense negotiating effort involving 10 major multilateral conferences in 3 years with the other five countries concerned—Russia, Japan, Korea, China, and Poland. This required an extraordinary spirit of goodwill and commitment on the part of those governments. And in this regard, our bilateral cooperation with Russia, as the coastal states of the Bering Sea, was a key element in our success.

The result which is achieved is a new state-of-the-art fishing convention that fully satisfies U.S. interests. I believe this Convention will set the standard for fishing agreements of the future.

My prepared statement and the documents submitting the Convention to the Senate set forth in detail the various provisions of

the Convention. But there are several points I would like to emphasize.

First, there will be no fishing for this stock of pollock unless a threshold biomass of 1.67 million metric tons is reached. If there is no consensus, this critical biomass decision ultimately will be made by reference to the decisions we make in our own zone regarding that portion of the stock found in the Bogoslof Island area.

A second key point is that if a fishery is allowed in the Donut Hole, U.S. fishermen will participate in that fishery through either a national quota we will negotiate or by way of the establishment of a fishing season in which all countries participate.

Third, stringent enforcement provisions are present in this agreement. These will ensure that any fishing that does occur does so consistent with the rules. These provisions relate to the use of real-time satellite position fixing transmitters—the first international agreement to require that—100 percent observer coverage, boarding and inspection on the high seas, and notification requirements that relate to entry into the fishing area.

These provisions give us assurance that not only is the potential Donut Hole fishery that may occur being conducted properly, but also that no cheating will be going on in relation to illegal fishing in the U.S. zone.

As noted in the prepared statement, the Donut Hole Convention rests firmly on the international law basis created by the 1982 Law of the Sea Convention. The general principles of the Convention were accepted by all countries involved in the negotiations. Article 63 of that Convention requires coastal states and states fishing on the high seas for a straddling stock to seek agreement on conservation measures for straddling stocks. And Article 116 of the Convention makes the freedom to fish on the high seas subject to certain rights and duties and interests of coastal States.

The Donut Hole Convention gives content to these general principles in light of the circumstances of the Central Bering Sea. The Donut Hole Convention is fully consistent with the Law of the Sea Convention.

Further, if the United States becomes party to the Law of the Sea Convention, the United States will be able to use its dispute settlement provisions to ensure that other states comply with their obligations on the high seas, including in the Donut Hole. These obligations include not to fish for salmon on the high seas, as Article 66 of the Law of the Sea Convention requires, and to comply with other agreements, such as this Donut Hole Convention.

In closing, Mr. Chairman, I can report that all the countries signatory to this Convention are moving rapidly in their respective ratification processes. I hope that the United States will be the first to ratify. We anticipate that by early 1995, assuming approval by the Senate, the Convention will be in force.

The signatory states met in Moscow just a few days ago at the end of the week of September 15, to plan for the entry into force of the Convention. All countries involved agreed to a plan of work which we had proposed, which will lead up to the first annual conference that will be held after entry into force. We plan to host that meeting, and we are planning to host it in November of 1995.

Unfortunately, as we approach the coming year, we do not see the anticipated improvement in the Aleutian Basin stocks' condition. The most recent information reveals a continuing decline in this important resource. Based on that fact, all the signatory countries agreed in Moscow to continue the voluntary suspension of fishing in the Donut Hole well into 1995, at least up to the first annual conference under this Convention, when a new decision can be taken.

Thank you, Mr. Chairman. I would be happy to answer any questions that you might have.

[The prepared statement of Ambassador Colson follows:]

PREPARED STATEMENT OF AMBASSADOR DAVID A. COLSON

THE CONSERVATION AND MANAGEMENT OF POLLOCK RESOURCES IN
THE CENTRAL BERING SEA

Mr. Chairman and members of the Committee: I am pleased to be here today to provide the comments of the administration on the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, with Annex, and to recommend that the Senate provide its early advice and consent to ratification of the Convention. The Convention was signed in Washington on June 16, 1994, by representatives of the People's Republic of China, the Republic of Korea, the Russian Federation, and the United States of America. Japan and the Republic of Poland signed the Convention in Washington on August 4, 1994, and August 25, 1994, respectively.

The Convention represents a mile-stone in the efforts of the United States to promote the long-term sustainable use of the Aleutian Basin pollock stock in the central Bering Sea. It is a state-of-the-art fisheries agreement that will properly limit pollock fishing in the high seas area of the central Bering Sea known as the "Donut Hole" in accordance with conservation needs.

The Convention contains strong provisions to ensure that it will be effectively enforced. U.S. enforcement officials will have the right to board vessels of other States Parties to the Convention to ensure that they are fishing in accordance with the Convention. It will require all vessels fishing for pollock in the Donut Hole to use real-time satellite position-fixing transmitters, to carry scientific observers, and to consent to boarding and inspection by authorized officials of any other Party to the Convention.

The Convention will enter into force thirty days following the deposit of instruments of ratification, acceptance, or approval of the Convention by at least four of the signatory States, including the United States and Russia.

The Convention, like virtually all recent fishery agreements, is based on the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which the administration will be transmitting to the Senate in the very near future.

As you know, Mr. Chairman, UNCLOS recognizes the sovereign rights and exclusive jurisdiction of coastal States to conserve and manage living marine resources in exclusive economic zones (EEZs) extending 200-nautical miles from their shores. While UNCLOS also acknowledges the right of all States for their nationals to fish on the high seas, it makes this right subject to the duty to conserve high seas fishery resources and to the rights, duties, and interests of coastal States.

These provisions of UNCLOS have created enormous benefits for the United States, which has one of the largest and richest EEZs in the world. The portion of our EEZ off Alaska alone contains some of these fertile fishing grounds.

Mr. Chairman, some stocks of fish do not remain exclusively within the EEZ of a single coastal State. With respect to fish stocks that occur both within the EEZ and in the adjacent high seas area—also known as "straddling stocks"—UNCLOS requires the coastal State and the States fishing on the high seas to seek to agree on conservation measures for stocks in the adjacent area.

Examples of straddling fish stocks include cod in the northwest Atlantic, jack mackerel in the southeast Pacific off the coasts of Chile and Peru, squid in the south Atlantic off Argentina, orange roughy off New Zealand, and pollock in the Sea of Okhotsk. The primary straddling stock of concern to the United States is Alaskan pollock—the Aleutian Basin pollock stock, in particular—in the central Bering Sea of the North Pacific Ocean. It is very valuable resource. In 1991, the Aleutian Basin

pollock roe fishery in the U.S. zone alone was valued at \$145 million (first wholesale price).

The central Bering Sea "Donut Hole" Pollock Fishery Convention before you today is precisely the sort of agreement envisioned by UNCLOS. In this case, two coastal States (the United States and the Russian Federation) negotiated intensively with four high seas fishing States (Japan, Korea, China, and Poland) and produced a treaty that will ensure effective conservation and management of a valuable straddling stock in the high seas area adjacent to the EEZs of the coastal States.

During the past three years, the Department of State, assisted by the Department of Commerce, the U.S. Coast Guard, the North Pacific Fishery Management Council, the States of Alaska and Washington, advisors, and congressional representatives, has undertaken negotiations to reach a multilateral agreement to conserve, rationally manage, and sustainably utilize this tremendous resource.

A history of the negotiations follows.

In June of 1990, during the U.S.-U.S.S.R. Summit, Presidents Bush and Gorbachev issued a joint statement calling for urgent conservation measures to be taken with regard to the unregulated multinational pollock fishery in the central Bering Sea. The Presidents noted that, in accordance with international law, all concerned States, including the United States and the Soviet Union, as the coastal States of the central Bering Sea, and distant water States fishing in the central Bering Sea, should cooperate to ensure the conservation of the living marine resources of this area. The United States and the Soviet Union noted their desire to develop cooperatively an international conservation and management regime for the central Bering Sea.

In December 1990, the United States, in coordination with the Soviet Union, invited China, Japan, Korea, and Poland—the States fishing in the central Bering Sea area—to a conference to consider arrangements for the conservation of the living marine resources of the area. At that time, the United States and the Soviet Union suggested, pending adoption of internationally agreed measures, that all States limit their fisheries in the central Bering Sea on a voluntary basis to pollock catches achieved during the 1985 fishing season, which totaled approximately 364,000 metric tons, in order to conserve the pollock resource. We also solicited suggestions on measures that States would take in the interim to monitor and enforce such levels of fishing.

The fishing States accepted our invitation, and in February 1991 the First Conference on the Conservation and Management of the Living Marine Resources of the Central Bering Sea was held in Washington.

The Conference agreed on interim measures to freeze fishing efforts in the area, discourage other countries from seeking to fish there, and discourage reflagging of vessels already operating in the area. It was also agreed to accelerate scientific research, standardize catch reporting, and not to retain anadromous species or herring taken as bycatch. With regard to the U.S. and Soviet proposal that the take of pollock from the Donut Hole be limited to 1985 levels, the distant-water fishing countries refused, responding, in effect, that such a proposal was unrealistic from an economic standpoint. The countries agreed to meet in July 1991 to continue discussions.

The Second Conference, held July 31 to August 2, 1991, in Tokyo, received scientific data that indicated that the Aleutian Basin pollock resource in the central Bering Sea had declined to such a point that it could not support catch at even the 1985 level. The United States and the Soviet Union proposed that all countries agree to a moratorium on fishing in the area during 1992. The United States noted that the U.S. pollock fishery off Bogoslof Island in the Aleutian Chain, which had been under careful conservation and management controls, would likely have to be curtailed or even closed. Despite the scientific data presented at the Second Conference, the distant-water fishing States opposed the moratorium and asserted instead that other regulatory measures should be sought. However, no further agreement was achieved on either interim or long-term conservation measures, nor in regard to the use of scientific observers, inspectors, and real-time satellite transmitter tracking devices. The U.S. tabled a proposal to establish an international convention for the area which would address the conservation and management needs of the fishery resources on a long-term basis. The proposal fairly represented the interests of both the coastal States and the fishing States, but was rejected by the fishing countries as being one-sided. The delegates agreed to meet again in November 1991 to continue discussions on both long-term conservation and management measures as well as urgent interim measures in the area to begin January 1, 1992.

The United States hosted the Third Conference in Washington, November 18–20, 1991. The delegates noted substantial catch declines from a peak of 1.4 million metric tons in 1989 to approximately 260,000 metric tons at the end of the third quarter

of 1991. However, despite this and additional evidence that a collapse of the Aleutian Basin pollock stock was imminent, the fishing countries continued to oppose the proposal for a moratorium on fishing in the area in 1992. All countries did agree that catch levels and fishing effort should be reduced substantially in 1992. The distant water fishing nations also agreed to some interim measures, including the deployment and exchange of scientific observers and the use of automatic satellite location transmitters on fishing vessels. However, the United States registered grave disappointment at the slow rate of progress on the issue and expressed serious concern that socio-economic considerations of some participants were continuing to be put before those of the conservation of the resource. We also noted that the United States would be prohibiting any fishery on the Aleutian Basin pollock stock in the Bogoslof Island area within the U.S. 200 mile zone, and, in light of this action, would expect all other countries fishing in the central Bering Sea to take commensurate conservation measures. The Soviet delegation noted that the Soviet Union was substantially reducing its fishing effort in its zone for the purpose of conserving the pollock stock. With regard to the U.S. proposal to establish an international convention for the area which would address the conservation and management needs of the fishery resources on a long-term basis, the delegates considered additional proposals presented by Poland and Japan, and agreed to participate in a drafting group to develop a composite negotiating text for future consideration. The United States offered to host the drafting group, and the delegations agreed to meet again at a Fourth Conference in the United States in 1992.

The Fourth Conference met April 13-15, 1992, in Washington. By this time all countries had become convinced that there was a real conservation problem. The delegations expressed concern about the continued decline of the pollock resource in the central Bering Sea and noted substantial catch declines to a total catch of 293,000 metric tons in 1991. They confirmed the earlier understanding that catch levels and fishing effort should be substantially reduced in 1992, but nothing further could be agreed. The United States described the drastic conservation measures which had been taken in the U.S. zone because of the depressed status of the pollock stock, including a prohibition on directed fishing for the stock in the Bogoslof Island area in the U.S. EEZ and steps aimed at prohibiting U.S. fishing vessels from operating in the central Bering Sea. The United States stated that it expected the directed fishery on Aleutian Basin pollock in the U.S. zone would remain closed in 1993. Russia noted that it had substantially reduced fishing effort in its zone and would consider taking conservation actions, similar to those taken by the United States, both within and beyond its zone, provided that other countries ceased fishing in the Donut Hole area. Japan noted that it would closely monitor its fishery through daily vessel reports, and would consider further conservation measures, including additional reductions in its catch and effort level in the area in 1993. China, Japan, Korea, and Poland expressed continued opposition to any proposed moratorium or suspension of fishing.

Japan noted that it was taking voluntary action to decrease its fleet size by nearly 50 percent during 1992, and stated that the overall catch quota for Japanese vessels would not exceed 120,000 metric tons in 1992. Korea-stated that it would decrease its fleet from 41 to 31 vessels in 1992, and indicated that it was considering the establishment of a catch limit for pollock in 1992 that would not exceed the 1991 catch level. China and Poland stated that they would further voluntarily reduce their number of fishing days by 20 percent compared to 1991 and would be prepared for further reductions. China noted that its reduction in catch should correspond to its reduction in fishing effort. Poland noted only that the 1992 pollock catch by Polish vessels would not exceed the 1991 level.

The United States and Russia expressed dismay at the incremental steps taken by the distant water fishing countries and that the proposed fishing effort reduction of 20 percent was not substantial. The coastal States reiterated their call for a fishing moratorium in the central Bering Sea due to the extremely depressed condition of the pollock resource; however, the fishing countries continued to resist this proposal. The United States announced its intention not to issue permits to any country seeking to use U.S. waters in support of their pollock fishing activities in the central Bering Sea.

The delegations reviewed a composite negotiating text outlining a long-term conservation regime for the area and established a working group to continue efforts to produce a final negotiating text. It was recognized that further efforts in this regard would be required. The delegations agreed to meet again at a Fifth Conference to be hosted by Russia in August 1992.

On June 17, 1992, at the U.S.-Russia Summit in Washington, Presidents Bush and Yeltsin issued a joint statement noting with concern that, despite the conferences held to date to develop an international regime for the conservation and

management of the living marine resources of the central Bering Sea, the pollock resource in that region had suffered a precipitous decline, which could upset the balance of the Bering Sea ecosystem as a whole. They called for strong and urgent conservation measures, including a voluntary suspension on fishing in the central Bering Sea by all States, consistent with steps already taken by the United States and Russia to conserve the resource.

The Fifth Conference was held in Moscow, August 12-14, 1992. A major breakthrough was realized when all sides agreed to a voluntary suspension of fishing in the area during 1993 and 1994 in light of the drastic decline of the pollock resource in the Donut Hole. The reported total catch of pollock in the area during the first six months of 1992 was less than 11,000 metric tons. It was noted that fishing efforts in the area had been significantly reduced. The United States and Russia agreed to take the same measures for the stock of pollock in their respective zones as were being taken in the Donut Hole. A resource monitoring program was also agreed upon to include scientific surveys by research vessels, trial fishing by a limited number of fishing vessels, and other scientific activities. The delegations agreed to continue working on a long-term conservation regime for the area, and to meet again at a Sixth Conference to be hosted by the United States in early 1993.

The Sixth Conference was held January 13-15, 1993, in Washington. A framework for the decision-making provisions of the draft Agreement was agreed upon which represented a significant step toward concluding a long-term conservation and management agreement for the area. The decision-making procedures acknowledged the precedence of the management action employed by the United States and Russia as the coastal States of the central Bering Sea in their respective zones for the Aleutian Basin pollock stock, in the event international consensus can not otherwise be reached.

No significant new information on the status of the pollock resource in the central Bering Sea was presented. The delegations reviewed steps taken to implement the temporary suspension of fishing for pollock in the central Bering Sea on a voluntary basis during 1993 and 1994, as well as the same measures in the U.S. and Russian zones. All countries confirmed having taken domestic steps to implement the suspension on a voluntary basis. The Conference also convened a working group to elaborate on procedures for implementing the resource monitoring program agreed to at the Fifth Conference. In light of the importance of the issue, the delegations agreed to meet again at a Seventh Conference to be hosted by Japan in June 1993.

On April 4, 1993, Presidents Clinton and Yeltsin, in the Joint Statement issued at the Vancouver Summit, announced their intention to expand and improve their joint work in the area of environmental protection. They agreed that the United States and Russia would further develop bilateral cooperation in fisheries in the Bering Sea, the North Pacific Ocean, and the Sea of Okhotsk, including for the purpose of preservation and reproduction of living marine resources and of monitoring the ecosystem in the North Pacific Ocean.

The Seventh Conference on the Conservation and Management of the Living Marine Resources of the Central Bering Sea was held June 28 through July 1, 1993, in Tokyo. The conference made minimal progress toward concluding the draft agreement for the conservation and management of the pollock resource in the central Bering Sea. Discussion continued among the countries on the decisions-making aspects of the agreement, particularly those relating to the determination of the allowable harvest level of pollock in the central Bering Sea. It was decided that, for purposes of the agreement, the pollock biomass of fishery management Area 518 in the United States would represent 60 percent of the Aleutian Basin pollock biomass. Additionally, there was agreement that the threshold level of Aleutian Basin pollock biomass would be 1.67 million metric tons; there would be no fishing on the stock if the biomass is below this amount. Furthermore, the countries agreed that when the percentage of pollock biomass in Area 518 as a percentage of the Aleutian Basin pollock biomass changes, the threshold level will be amended accordingly. No progress was achieved on other decision-making aspects of the draft agreement. The countries reviewed steps taken to implement the interim measures for the conservation and management of the living marine resources of the central Bering Sea, including the temporary suspension of fishing for Aleutian Basin pollock on a voluntary basis in the central Bering Sea during 1993 and 1994. The delegations exchanged preliminary information obtained through a research and monitoring program being conducted during the period of the fishing suspension.

Results of research cruises conducted up to the date of the Seventh Conference indicated that the status of the pollock resource in the Aleutian Basin still did not provide grounds for optimism. Available information from the research cruises and from trial fishing operations indicated no significant change in the status of the

Aleutian Basin pollock stock and that it continued at a low level of abundance. The countries intended to continue cooperative scientific research.

The United States expressed disappointment that greater progress was not made on the draft agreement. We noted that fundamental work was required in a number of areas; that comparing the prospects for resumed fishing in the future with the overfishing situation which existed in the late 1980's, as some countries had sought to do, was inappropriate; that the interests of the United States and Russia, as the coastal States in whose zones nearly 95 percent of the Bering Sea lies, must be taken into account; and that this agreement should be state-of-the-art and must ensure sustainability of resources over time.

The countries, reaffirming the necessity of concluding negotiations on a long-term conservation and management agreement, met for an Eighth Conference hosted by the Republic of Korea on October 6-8, 1993, in Seoul. The countries reviewed steps to implement the voluntary moratorium and other interim measures adopted at the Fifth Conference that were aimed at conserving and managing the living marine resources in the central Bering Sea. The delegations also shared information on the status of the pollock resources and concluded that the very low abundance of stocks had not changed significantly. The countries indicated their intention to coordinate further research and surveys in 1994 on the Aleutian Basin pollock resource, and to discourage fishing for pollock in the region by vessels of other nations.

Additionally, the delegates continued discussions on a long-term arrangement for the conservation and management of pollock resources in the central Bering Sea. They also considered, but did not agree on, various proposed methods to establish allowable harvest levels of pollock under the draft agreement after stocks had been replenished.

The representatives discussed provisions for compliance, including the use of real-time satellite position-fixing devices, transmission of fishing vessel and catch data, placement of on-board observers, and enforcement mechanisms, including boarding and inspection, measures to respond to alleged violations, and prosecution and penalties. The delegates also considered proposals on other aspects of the draft Agreement.

Recognizing the gravity of the decline of the pollock resources in the central Bering Sea and the urgent necessity for responsive measures, the delegations stated their desire and intent to conclude negotiations on a draft text by the end of 1993. Toward this end, they agreed to meet at a Ninth Conference hosted by the United States at the earliest possible time.

At the Ninth Conference, held in Washington, D.C. from November 29 to December 3, 1993, the countries continued their discussions on a draft Agreement, achieving understandings on the major outstanding issues, including the method to be used for establishing allowable harvest levels, and matters involving compliance. Representatives noted that their respective governments would carefully review the text, especially the provisions on compliance.

In view of their continuing concern for the conservation and management of pollock resources in the central Bering Sea, the countries decided to complete the draft Agreement as soon as possible and to meet at a Tenth and final conference hosted by the United States.

The countries concluded negotiations on the draft text, and the agreement was initialed at the Tenth Conference, held February 7-11, 1994 in Washington. The "Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea" contains provisions that require vessels fishing for pollock in the region to use real-time satellite position-fixing transmitters, to carry observers, and to consent to boarding and inspection by authorized officials of any other party for compliance with the Convention. The United States serves as depositary for the Convention, which will enter into force thirty days following the deposit of instruments of ratification, acceptance, or approval of the Convention by at least four signatory States, including the United States and Russia.

The Convention was opened for signature in Washington on June 16, 1994, and has been signed by each of the countries that participated in the negotiation of the agreement. Additionally, each country is currently undertaking its respective domestic procedures to ratify the Convention.

Mr. Chairman, I would be remiss if I did not note the benefit received throughout the negotiations from the support provided by the National Marine Fisheries Service, the National Oceanic and Atmospheric Administration, and the U.S. Coast Guard. Equally important in our three year effort toward the successful conclusion of the Convention was the close cooperation, counsel, and advice provided by representatives of the States of Alaska and Washington, as well as from members of the U.S. Bering Sea and North Pacific Advisors Body, all of whom support the Con-

vention's early ratification and entry into force. I also wish to acknowledge the support and advice provided by Congressional staff during the negotiations.

Mr. Chairman, I would be pleased to answer any questions you may have regarding the negotiations or the Convention itself. I trust that the Committee will view the Convention favorably and will act on it at an early date. Thank you.

The CHAIRMAN. I noted with interest in your comments about the Donut Hole Convention and its relationship to the Law of the Sea Convention. I was wondering what basis there would be in international law for agreements to control fishing on the high seas in the absence of the Law of the Sea Convention?

Ambassador COLSON. Mr. Chairman, in this negotiation, which was a very difficult negotiation with the six countries concerned, from the outset we were able to agree on the basic principles of the Convention. If we did not have those basic principles, we would have been starting way behind the curve. But those basic principles, and agreement internationally on those basic principles, kept us from a very chaotic situation.

While we assert the right to a 200-mile zone and while Russia asserts a right to a 200-mile zone, the principles of the Convention confirm that we are entitled in international law to have a 200-mile jurisdiction of our own. As well, we assert a coastal state interest in the pollock resource outside of our 200-mile zone, that we have rights and interests in that resource, but the Convention confirms that we do. And it requires other states that may be fishing that resource to cooperate with us and to work out arrangements that take account of our coastal state interest.

If we did not have those basic principles, we would simply be starting from ground zero in a negotiation, where everyone would be on an equal footing, and it would be a very difficult situation to sort out. But in this situation we have these basic principles of the Convention.

Certainly these were, from time to time, subject to different interpretations by different countries, but those bedrock principles were the foundation upon which this agreement was built. And they were key, I believe, to moving countries like Japan in particular, which of course is a very legalistic country, moving them to a position where they were prepared to accept terms and conditions in this kind of convention which they might not have been willing to do if there was not a Law of the Sea foundation for the interests that the United States was asserting.

The CHAIRMAN. So this would be one more reason why we ought to go ahead with the Law of the Sea?

Ambassador COLSON. Very much so. And I would also note again the importance that the dispute settlement provisions of the Convention, with respect to fisheries, could have in helping enforce compliance with this Donut Hole Convention. We will have, assuming that we ratify the Law of the Sea Convention, additional tools that will supplement our diplomacy to help ensure compliance with general principles of international law, as well as the specific obligations of this Convention in the Donut Hole if states refuse to go along with those rules.

The CHAIRMAN. Thank you.

In the letter from the Secretary of State submitting the Convention it states that the Department of State stands ready to work with the Congress toward the enactment of any implementing leg-

islation. My question to you is: Is implementing legislation necessary for us to carry out the obligations of the Convention, and what statutory authorities are needed?

Ambassador COLSON. Yes, Mr. Chairman, that is an important issue. The administration has not proposed implementing legislation for this Convention because it is unnecessary if we move forward and ratify the flagging convention and pass the implementing legislation which has been submitted to the Congress relating to the flagging convention.

If we pass that convention and that set of rules that are contained in the flagging convention implementing legislation, we will have all the necessary legal authorities for the United States to technically implement the Donut Hole Convention on our side. So, we have seen it as an unnecessary step to establish second additional implementing legislation separately for the Donut Hole.

Certainly if we were to, for some reason, not be able to ratify the flagging convention or fail to pass the necessary implementing legislation, there would be a need to pass implementing legislation for this Donut Hole agreement. Also I would note that often our fisheries implementing legislation creates some set of advisors or some advisory process that we utilize for the purpose of getting public input into positions that the United States might take.

We do not really see a need for that in the Donut Hole situation because Pub. L. 100-629, which sets up the North Pacific and Bering Sea Fisheries Advisory Body, which we used in the negotiation of this Convention as our set of advisors, would seem to us to be sufficient for this purpose. And it would be our intent to continue to utilize that group as the advisors for the Donut Hole Convention.

The CHAIRMAN. Notwithstanding its mandatory features in this Convention, the success of the conservation management regime contemplated by the Convention depends upon the voluntary cooperation of the parties. What gives you the confidence to feel that that voluntary cooperation will be present?

Ambassador COLSON. Well, first, I would say that throughout the course of this negotiation it has always been tough in dealing with our colleagues from Japan and China and Poland and Korea, but I think they have been cooperative. And they certainly have been cooperative in the last 2½ years when they voluntarily agreed not to fish in the Donut Hole. And I think they want to see the stock rebuild and they want to see a potential possibility of a fishery in the Donut Hole in the future on a healthy stock of fish.

I am confident that the agreement that we have reached gives us the tools to ensure full compliance with the obligations that the United States and these other five states are taking on.

We have about as much assurance as we are ever going to get about how that fishery is going to be conducted in that region. The requirement of satellite transponders will give us immediate access to the information of where vessels are at any particular time. We will be able to ensure that vessels are not cheating in our zone.

We will have the right to place U.S. observers on any foreign fishing vessel that we want to put U.S. observers on. We will have the right to board and inspect any fishing vessel for any purpose in the Donut Hole area. And certainly we have that right in our

zone. And if we find violations, it is clear that if they are serious violations, we will be able to continue the boarding process and hold on to that vessel until we have full assurance that appropriate penalties will be levied by the flag state.

The CHAIRMAN. The Convention calls on the parties to agree by consensus on national harvest levels for pollock. And I think we would call this the individual national quotas. If the consensus on the individual national quotas cannot be reached, then the Convention provides that fishing shall take place in the Convention area pursuant to part two of the annex. Could you describe part two and its purpose for the committee and how it would ensure that the sum of each party's pollock catch in the Convention area does not exceed the agreed upon annual harvest?

I realize this is a rather technical question, but we would appreciate the answer.

Ambassador COLSON. Mr. Chairman, we do not have all of the answers to all of the technical details in that respect, but I can say this. During the course of the negotiation, it appeared to be very difficult to divide up a total allowable catch in some way amongst the six countries concerned, where we all thought that we were being fairly treated.

It was agreed that if that was not possible—and I would submit it is most likely that that will not be possible—then the way that we would conduct the fishery in the Donut Hole would be to establish a fishing season during which the fishery would be opened. There would be very clear catch reporting requirements. We would have observers on board to monitor the catch. And we would only keep that fishery opened until such time as the total allowable catch had been caught.

We would have real-time information about the amount of fish that was being taken in the Donut Hole based upon weekly catch reporting data and based upon the observer information that we would receive. We would close the fishery. If some vessel stayed in the fishery after it was closed, that would be a serious violation under which we could exercise our enforcement rights under this Convention.

The CHAIRMAN. I thank you very much indeed.

We have been joined by Senator Murkowski, who I think has some comments and questions on this matter.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I particularly am appreciative of you for having rescheduled this hearing on the Donut Hole. And I apologize for being late. As you know, over at the Library of Congress, is the opening of the Russian-Alaska Exhibit, which is an extraordinary collection of artifacts from the Russian Orthodox Church and the early history of Russia's founding of the Western United States as it is known today.

President Gorbachev conceded that Columbus founded America, but he said that the Russians founded Western America, or Alaska. And in the presentation, he had a check prepared to buy back Alaska, \$7,200,000, or thereabouts, with interest. And Senator Stevens is calculating the interest and will be here at some point. I do not know whether there was any acceptance of that, but we will see what the interest tallies up to.

But, in any event, let me just make a few comments, because I think that this is a noteworthy day, and a number of people deserve credit, including those in the State Department who have worked the Donut Hole issue. And for those of you who do not know, that is the area that is 200 miles out from Alaska, 200 miles out from Russia, and it is called the Donut Hole because it is outside the jurisdiction of the 200-mile limits.

We have seen a situation where unlimited fisheries took place in an area where the most productive fishery in the North Pacific or, for that matter, anywhere in the world existed. And without appropriate regulations, as you know, Mr. Chairman, the fishery stood to go into substantial decline. So we have had a lot of people involved here.

There was an interesting group, Mr. Chairman, that I think deserves credit, including some civilian advisors from Alaska—and also a fisherman by the name of Sam Gjelle and a gentleman by the name of Ted Evans. Gjelle chartered a small aircraft, flew out there, and took pictures of what was going on at a time when we suspected—but had no proof—of illegal fishing out there. These gentlemen made a videotape of as many as seven vessels using the donut area to stage raids into the U.S. zone.

The CHAIRMAN. I must interrupt. There is a vote going on. Do you want me to go over and come back?

Senator MURKOWSKI. If you would like to go over and then we will trade off, that would be fine. Thank you, Mr. Chairman.

In any event, I think Gjelle and Evans and their videotape deserve recognition, because they brought to light, in an expedited manner, a situation that we were concerned about but on which we had not gotten the evidence. And I think it really showed the seriousness of what was happening in and out of the exclusive economic zone.

The concern, of course, was for the pollock stocks that spawn largely in U.S. waters. The reported catches from the Donut area, we were told, equalled the catches from the U.S. zone, and unreported harvests were known to take a far greater volume.

We know that vessels from Japan, China, Korea, and Poland really found a gold mine in that unregulated fishery. As a consequence, it was necessary that something be done.

We soon saw, as we suspected, that even the Bering Sea could not sustain that limitless harvest. and, as we saw, the catches from the unregulated harvests in the Central Bering Sea really were a back door to this country's very richest and most abundant fisheries resources—and that was of course the pollock EEZ.

Today, we are moving to close that door. And that is the significance of what we have before us. Because since the mid-1980's, I, along with Senator Stevens, have sponsored numerous resolutions. We have held meetings with administration officials. We have had lots of meetings with foreign government representatives, both here and abroad, to increase the awareness of the Donut Hole.

And, in 1992, we passed legislation making it illegal for U.S. vessels to fish in the Donut Hole, and, together with the fishing nations, reached an agreement for a temporary suspension of all fishing through the end of this year. And now we are in a position where we are ready to adopt a permanent measure.

The treaty we are addressing today, I think, is an excellent one. When the pollock biomass becomes sufficient to allow fishing to occur, there is a procedure under the treaty to provide that all parties ensure that its vessels are specifically licensed to fish in the area, that they carry position transmitters that they and are required to carry fishery observers on a full-time basis. So, we have the appropriate regulatory oversights established.

The treaty also provides very strong provisions on boarding and inspection. One of the problems we have always had is enforcement. We now will have the needed enforcement authority. All fishing vessels will be subject to boarding and inspection by vessels of another party if there is reason to suspect that there are violations. If violations are found, the vessel's flag state has the responsibility. However, if the flag state cannot take over in a serious case, the boarding party can maintain control until appropriate arrangements are made.

I am particularly pleased with these enforcement measures, because, together with provisions calling for observers and real-time position transmitters, they are things that I have strongly encouraged and which will make it possible to ensure that no fishing vessel is able to use fishing in the Donut Hole to repeat the kind of raids we have seen in the past number of years.

Finally, let me note in my opening remarks that although no country will be compelled to join the treaty in order to fish, international law allows the use of a variety of mechanisms to encourage it to do so, including trade sanctions. And, once the Convention on the Law of the Sea goes into effect, that agreement's dispute mechanism, I understand, may also be used to encourage cooperation.

So, in all, I think the treaty sets a new standard of international fisheries cooperation.

I am certainly happy to give it my full support and encourage all members of the committee to do the same.

And, again, I want to thank Chairman Pell for his kindness in being responsive to the concern that the Alaska delegation has had for a long time and, which I know that he shares.

That is all I have for my opening statement. We are here to hear some more from our witness, the Hon. Ambassador Colson.

I apologize for interrupting you, but that is the procedure around here—apologizing and interrupting. So, please, proceed. It is nice to see you again.

Ambassador COLSON. Well, Senator, it is good to see you again, too. I had concluded my informal remarks, but I would like to underscore a few points.

Senator MURKOWSKI. I might add that the second bell has rung, so I have 7 minutes to go over for a vote. I do not know whether the chairman is going to get back here, but I am good for at least 3½ to 4 minutes.

Ambassador COLSON. I want to underscore the importance that I attach to the cooperation that we received from the North Pacific and Bering Sea advisors. They played a very, very key role in this process. And as you know, in any negotiation it is a dynamic process. It moves from where you start, and you end up often in a slightly different place.

One of the things that was really very encouraging in this process was to watch our advisors and their positions and their interest in creating an international solution to this problem, rather than a unilateral solution, evolve, and their comfort level—that we got a good deal in this process. And I think we did.

If we look back where we started the negotiations and some of the things we were prepared to offer, we ended up in a much better position. We ended up with this position that there will not be any fishing there until the biomass reaches a particular level. And we are in control of that.

Senator MURKOWSKI. Whose science determines the biomass? Is that our science?

Ambassador COLSON. In all of these conventions you usually need—at one level you are going to try to work it out internationally. There will be an effort to decide by consensus. But the key point on this Convention is that there is a fail-safe mechanism. If we cannot decide the biomass by consensus, it will be decided based upon what we decide for the Bogoslof part of the stock in our zone. And it is a very key point that our decision will be the driver here.

Senator MURKOWSKI. OK, it will be our science.

Ambassador COLSON. And while we will certainly coordinate and cooperate with the other countries involved, we are not going to get into one of these situations where one of the fishing countries has a scientific view and we have a scientific view and we cannot make them meet, and so we have a chaotic situation.

Senator MURKOWSKI. So, you do not see another situation like the U.S.-Canada salmon treaty?

Ambassador COLSON. No, I certainly hope not.

Senator MURKOWSKI. I hope not also.

Ambassador COLSON. Here we have some very clear rules. We have very clear enforcement authority. We have a strong conservation ethic built into it. We will have a very limited fishery. I do not expect we will ever see the kind of fishery that we had in 1987, 1988, and 1989, even when the stock rebuilds. I think that was a historic anomaly. We knocked the stock apart. It is going to take some time for them to recover.

Senator MURKOWSKI. "Some time" is how long?

Ambassador COLSON. Well, we know that in 1995 there is not going to be any fishing on this stock. The scientific indications continue to go down. We had thought that for 1995 we might begin to see a leveling off or maybe a rebounding. But I think that most scientists would say it will be at least a couple of years before we see this turn around.

Senator MURKOWSKI. Before you see a halt in the decline?

Ambassador COLSON. Right. And then it is going to take some time to rebuild.

Now, as you know, you get anomalies, where you have very strong year classes from time to time, which, for some reason that you cannot really explain, show up in the fishery. And there is a lot of suspicion that what we had was an anomaly, where we had a very strong year class that was present in the Donut Hole for that late period in the 1980's. And also there is a lot of suspicion—and we will never know the truth of this—that a lot of those fish

that were said to be caught in the Donut Hole were really taken in our zone.

What we have now is a situation that if we get to a point that we all are comfortable that a fishery could be conducted in the Donut Hole, that fishery is going to be very carefully controlled. As you said, we are going to know if we have any cheating going on in our zone. We will have those transponders on. We will have observers on. That is not going to occur again.

And if there is a fishery, it is going to be a very limited fishery and a very carefully controlled fishery.

Senator MURKOWSKI. I am sorry, Ambassador, I have to leave. I am going to recess, because I am quite sure that Senator Stevens is going to come over here.

I want to personally commend you for your knowledge and expertise and contribution to bringing this about. I do not feel it would have happened without your commitment and your convincing arguments, which were made on sound science and not emotion.

Ambassador COLSON. Thank you.

Senator MURKOWSKI. I hope you also will be able to continue your service as an expert on the Canadian salmon issue. Unfortunately, it is still very much hanging in the balance.

So, I will simply recess the hearing. I understand Senator Pell is on his way back. Thank you very much, Mr. Secretary.

[A brief recess was taken.]

The CHAIRMAN. The committee will come back to order.

Senator Murkowski informed me that he has had the opportunity of asking some questions. Senator Stevens cannot be with us because of conflicting commitments. So, without objection, I would ask that his statement be inserted in the record as if read.

[The prepared statement of Senator Stevens follows:]

PREPARED STATEMENT OF SENATOR TED STEVENS

CENTRAL BERING SEA "DOUGHNUT HOLE" AGREEMENT

I appreciate the opportunity to present this statement. My thanks to Chairman Pell and Senator Helms for allowing me this privilege.

What we call the "Donut Convention" is officially called the "Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea."

We began work on this agreement well over five years ago.

As you may remember, in 1987, U.S. fishermen operating off Alaska presented video evidence to the Coast Guard and to Congress of foreign vessels using the Donut Hole as a staging area for illegal fishing in the U.S. Exclusive Economic Zone.

On March 21, 1988, the Senate passed my resolution (S. Res. 396) calling on the Secretary of State to initiate negotiations for a moratorium on fishing in the Central Bering Sea Donut area.

This resolution called on the Secretary to ensure that the moratorium would stay in effect until after the U.S. and Russia could reach agreement with the other interested nations on measures to conserve and manage the fishery resources in the Donut.

The U.S. and Russia convened a series of meetings on fishing in the Donut starting in 1991.

Between 1989 and 1992, we saw the dramatic decline that was occurring in the Aleutian Basin pollock stock, culminating in the closure of fisheries for this stock inside the U.S. EEZ in 1992.

We increased our pressure to conserve the Donut Hole resources in 1992 by passing the "Central Bering Sea Fisheries Enforcement Act" (title III of Pub.L. 102-582), which authored.

This Act prohibited U.S. nationals and vessels from fishing in the Donut except when allowed under an international fishery agreement to which both the U.S. and Russia are parties.

The Donut Enforcement Act also prohibited the entry into U.S. ports of fishing vessels from foreign nations fishing in the Donut outside of an international agreement to which both the U.S. and Russia are parties.

Following the passage of this Act, the U.S., Russia, China, Japan, Korea and Poland agreed in 1992 to a two-year voluntary moratorium on fishing in the Donut Hole.

The U.S. continued to meet with these nations to work on a permanent regime for the conservation and management of fishery resources in the Donut Hole.

Last November, just before the ninth round of Donut meetings, the Appropriations Committee included report language at my request in the Foreign Operations appropriations bill (Pub. L. 103-87).

This language recommended that the cooperation of the nations participating in the Donut negotiations be considered in deciding how much foreign aid the U.S. should provide.

The goal again was to increase pressure on the other nations to successfully conclude these Donut negotiations.

Near the end of the session last year, we also passed a "Sense of the Congress" resolution as part of the Coast Guard Authorization Act of 1993 (Pub. L. 103-206), calling on the United States to use all available means to reach an agreement in the Donut Hole.

These additional measures led to the completion in February 1994, at the tenth round of Donut meetings, of the Convention you are considering today.

The United States, Russia, China and Korea each initialed this agreement at a ceremony on June 16, 1994, and Japan and Poland agreed to the Convention on August 4, 1994 and August 25, 1994, respectively.

The President signed the Convention for the U.S. on August 9, 1994.

The Agreement will allow the U.S. and Russia to set harvest levels for the Donut, and will allow the U.S. and other parties to board vessels suspected of violating the agreement.

The Convention also includes important notification procedures for fishing vessels entering the Doughnut Hole and for transshipping fish, and also includes fishery observer requirements for member nations.

I come before you today to urge the Committee on Foreign Relations to send this measure to the Senate floor so that we can complete the advice and consent process before the adjournment of the 103rd Congress.

The Donut Convention is vitally important to the conservation of pollock both in the high seas area of the Bering Sea, and inside the Exclusive Economic Zones of both the United States and Russia.

In closing, Mr. Chairman, I note that the Commerce Committee reported out last week the High Seas Fisheries Licensing Act that Senator Kerry and I introduced. This act would implement and the Donut Convention. I hope to work with you and this committee to pass this legislation this year.

The CHAIRMAN. I would add that in connection with the boundary convention that I do believe that the Governor for the Virgin Islands should be informed. And we are in communication with him, hoping that the points that concern him can be resolved. If they are not resolved for the moment, as a responsible chairman, I feel that I should have the prerogative of holding off if he is not satisfied.

Ambassador COLSON. I understand that point, Mr. Chairman. We will be working with your staff this afternoon to see if there is something that we can do to explain the situation to the Governor.

As I said, the line is, for all practical purposes, the same line. It was the line that we have used since 1977. That line had 150-some turning points, so it was a very complicated line that was simply derived by computer. There was some straightening, if you will, so that the line became a simpler line.

The United States was not disadvantaged in any way. I am told by our technicians we actually picked up a few acres in that process. So, as far as the amounts of acreage at stake, I think there

is nothing to be concerned about. And we certainly did not give up any ground that was known to be of interest. But we will work with your staff this afternoon and see if we can do something to satisfy the Governor.

The CHAIRMAN. Good. I thank you very much, indeed.

I very much want this to go through, because you know how much I believe in the Law of the Sea, and I recognize the connection.

Thank you for being with us.

The hearing is adjourned.

[Whereupon, at 11:30 a.m., the hearing was adjourned, to reconvene subject to the call of the Chair.]

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